

HOUSE BILL 2819

By Hardaway

AN ACT to amend Tennessee Code Annotated, Section 44-8-108, relative to dogs and to enact the "Destiny Knox Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 44-8-408, is amended by deleting the section in its entirety and by substituting instead the following:

§ 44-8-408.

(a) This section shall be known and may be cited as the "Destiny Knox Act".

(b) As used in this section, unless the context otherwise requires:

(1) "Enclosure" means an area for keeping a dog securely confined indoors or in a securely enclosed and locked pen, fence, or structure while on the owner's property that is suitable to prevent the entry of young children and the escape of the animal. A pen or structure is designed to prevent with reasonable certainty a dog's escape if it has secure sides and a secure top, and, if the dog is enclosed within a fence, all sides of the fence are of sufficient height and the bottom of the fence is constructed or secured in such a manner as to prevent the dog's escape either over or under the fence;

(2) "Harboring or keeper" means any natural person or any legal entity, including, but not limited to, a corporation, partnership, firm, or trust who temporarily harbors, keeps, possesses, or exercises custody or control of a dog within this state; and

(3) "Owner" means any natural person or any legal entity, including, but not limited to, a corporation, partnership, firm, or trust who is vested with legal ownership or title to a dog and regularly keeps, harbors, possesses, or exercises custody or control of such dog within this state.

(c) It is an offense for an owner, keeper, or harbinger of a dog to fail to restrain the dog at all times on a leash or similar device in such person's immediate control or in a pen or other enclosure reasonably certain to prevent the dog from leaving the pen or enclosure on its own.

(d) A violation of subsection (c) is a:

(1) Class C misdemeanor punishable only by a fine of one hundred dollars (\$100);

(2) Class B misdemeanor punishable only by a fine of five hundred dollars (\$500) if the dog causes damage to the property of another;

(3) Class A misdemeanor punishable by a fine of two thousand five hundred dollars (\$2,500) and imprisonment for a time in the discretion of the court if the dog causes bodily injury, as defined by § 39-11-106, to another;

(4) Class E felony punishable by a fine of five thousand dollars (\$5,000) and imprisonment for a time in the discretion of the court if the dog causes serious bodily injury, as defined by § 39-11-106, to another; and

(5) Class D felony punishable by a fine of ten thousand dollars (\$10,000) and imprisonment for a time in the discretion of the court if the dog causes the death of another.

(e) Notwithstanding subsection (d), a violation of subsection (c) shall be punished as provided in subsection (f) if the violation involves:

(1) A dog that was trained to fight, attack or kill or had been used to fight; or

(2) The owner, keeper, or harbinger of the dog violating this section knew of the dangerous nature of the dog and, prior to the violation of this section, the dog had bitten one (1) or more people that resulted in serious bodily injury or death.

(f) A violation of subsection (c), where one (1) or more of the factors set out in subsection (e) are present, shall be punished as follows:

(1) A Class B misdemeanor, punishable only by a fine of five hundred dollars (\$500) if the dog does not cause property damage, injury or death;

(2) A Class A misdemeanor punishable by a fine of two thousand five hundred dollars (\$2,500) and imprisonment for a time in the discretion of the court if the dog causes damage to the property of another;

(3) A Class E felony punishable by a fine of five thousand dollars (\$5,000) and imprisonment for a time in the discretion of the court if the dog causes bodily injury to another;

(4) A Class D felony punishable by a fine of ten thousand dollars (\$10,000) and imprisonment for a time in the discretion of the court if the dog causes serious bodily injury to another; and

(5) A Class C felony punishable by a fine of twenty-five thousand dollars (\$25,000) and imprisonment for a time in the discretion of the court if the dog causes the death of another.

(g) It is an exception to the application of this section that:

(1) The dog was on a hunt or chase;

(2) The dog was on the way to or from a hunt or chase;

(3) The dog was guarding or driving stock or on the way to guard or drive stock;

(4) The dog was being moved from one place to another by the owner, keeper, or harbinger of the dog;

(5) The dog is a police or military dog, the injury occurred during the course of the dog's official duties and the person injured was a party to, a participant in or suspected of being a party to or participant in the act or conduct that prompted the police or military to utilize the services of the dog;

(6) The violation of subsection (c) occurred while the injured person was on the private property of the dog's owner, keeper, or harbinger with the intent to engage in unlawful activity while on the property;

(7) The violation of subsection (c) occurred while the dog was protecting the dog's owner, keeper, harbinger or other innocent party from attack by the injured person or an animal owned by the injured person;

(8) The violation of subsection (c) occurred while the dog was securely confined in a kennel, crate or other enclosure; or

(9) The violation of subsection (c) occurred as a result of the injured person disturbing, harassing, assaulting or otherwise provoking the dog.

(h) The exception to the application of this section provided in subdivisions (g)(1)-(4) shall not apply unless the owner, keeper, or harborer in violation of subsection (c) pays or tenders payment for all damages caused by the dog to the injured party within thirty (30) days of the damage being caused.

(i) It is not a defense to prosecution for a violation of subsection (c) and punished pursuant to subdivision (d)(1), (d)(2) or (d)(3) that the dog owner exercised reasonable care in attempting to confine or control the dog.

(j) It is an affirmative defense to prosecution for a violation of subsection (c) and punished pursuant to subdivision (d)(4) or (d)(5) that the dog owner exercised reasonable care in attempting to confine or control the dog.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.